

Reference Number: 736-01-DD
Title of Document: Relatives/Family Members Serving As Paid Caregivers of Certain Medicaid Waiver Services
Date of Issue: December 1, 2004
Effective Date: November 1, 2004
Last Review Date: April 1, 2008 **REVISED**
Date of Last Revision: April 1, 2008
Applicability: MR/RD Waiver:
 Personal Care I and II
 Adult Attendant Care
 Nursing Services
 HASCI Waiver:
 Attendant Care/Personal Assistance Services
 Medicaid Waiver Nursing

PURPOSE:

The purpose of this directive is to implement the state Medicaid policy regarding relatives serving as paid caregivers, to provide clarifications of the policy and to establish procedures for implementing the policy.

POLICY:

Relatives/family members of a waiver recipient may be paid to provide the waiver services noted in the “applicability” section of this policy when the relative/family member is not a legally responsible relative/family member and he/she meets all South Carolina Medicaid provider qualifications.

The following relatives/family members will not be paid for providing the noted services:

1. The spouse of the Medicaid recipient;
2. A parent of a minor Medicaid recipient;
3. A legally responsible foster parent of a minor Medicaid recipient;

4. A legally responsible guardian of a minor Medicaid recipient;
5. A court appointed guardian of an adult Medicaid recipient.
6. Step-parent of a minor Medicaid recipient.

The following relatives/family members may be paid for providing the noted services when all South Carolina Medicaid provider qualifications are met:

1. A parent of an adult Medicaid recipient;
2. A non-legally responsible relative/family member of a minor or adult Medicaid recipient;

Relatives/family members who are a primary caregiver of the recipient will not be paid for **all** of the care they provide. The amount to be paid will be based on the recipient's needs as determined by his/her service coordinator in accordance with DDSN Policy. The Department relies on the informal supports provided by family members to recipients. Only the needs of the recipient will be considered. Services of specific benefit to the recipient will be authorized. Services that benefit the entire household will not be authorized.

A by-product of the provision of these services by those outside of the recipient's home is that it affords the primary caregiver some relief or break from the responsibilities of care giving. Family members who are also a primary caregiver and who opt to be paid for a portion of the care/service they provide, will not also be authorized to receive additional respite services. The need for respite in these situations will be assessed as if the care/service is being provided by a non-family or non-primary caregiver.

CLARIFICATIONS:

For purposes of this policy, "Legally Responsible" means "Legal Guardian" which is defined by Black's Law Dictionary as "A person lawfully invested with the power, and charged with the duty, of taking care of the person and managing the property and rights of another person, who, for defect of age, understanding, or self-control, is considered incapable of administering his own affairs. One who legally has the care and management of the person, or the estate, or both, of a child during its minority."

This policy is not applicable to respite caregivers. See 735-02-DD.

For purposes of this policy "minor" is defined as "An infant or person who is under the age of legal competence, which in South Carolina is age 18."

This policy allows payment to non-legally responsible family members (brother, sister, step parent, grand parent etc.) living in the same household as the Medicaid recipient.

The policy states that relatives/family members who are paid for care/services must meet all South Carolina Medicaid provider qualifications. Those qualifications are outlined in Appendix B of the MR/RD Waiver, Appendix B of the HASCI Waiver.

Companies or agencies, including DSN Boards, are under no obligation to hire relatives/family members to provide services.

When unclear, final determinations about the permissibility of a relative or family member's eligibility to receive payment under this policy will be made by DHHS General Counsel.

PROCEDURAL INFORMATION:

When a relative/family member wishes to be paid for providing one of the services noted in this policy, the recipient's Service Coordinator should refer the relative/family member to the appropriate location as indicated below.

A. MR/RD Waiver Services:

For Personal Care I, refer to:

- ♦ any company or agency directly enrolled as a provider with the Medicaid Agency, or
- ♦ the DSN Board/Qualified Provider serving the recipient.

For Personal Care II, refer to:

- ♦ any company or agency directly enrolled as a provider with the Medicaid Agency, or
- ♦ the DSN Board/Qualified Provider serving the recipient

NOTE: *Aids who provide Personal Care II must do so under the supervision of a nurse.*

For Adult Attendant Care Services, refer to:

- ♦ the UAP Self- Directed Attendant Care Program(applicable for Adult Attendant Care services

NOTE: *Aids who provide Adult Attendant Care must do so under the supervision of a nurse. The person who directs attendant care may not choose themselves as the attendant care provider and may not provide any attendant care services for reimbursement through the MR/RD Waiver. Please refer to the MR/RD Waiver manual for specifics (this service is currently being developed and will be incorporated in the MR/RD Waiver manual in the near future).*

For Nursing Services, refer to:

- ♦ any company or agency directly enrolled as a provider with the Medicaid Agency.

B. HASCI Waiver Services:

For Attendant Care/Personal Assistance Services, refer to:

- ♦ any company or agency directly enrolled as a provider with the Medicaid Agency, or
- ♦ the UAP Self- Directed Attendant Care Program, or
- ♦ the DSN Board/Qualified Provider serving the recipient.

NOTE: *Attendant Care/Personal Assistance Services must be provided under the supervision of a licensed nurse. A service recipient or representative can assume supervision if the service recipient participates in the UAP Consumer Directed Attendant Care Program.*

For Medicaid Waiver Nursing Services, refer to

- ♦ any company or agency enrolled as a provider with the Medicaid Agency.

When a DSN Board/Qualified Provider hires a relative/family member, documentation that the family member is not legally responsible, as previously defined for the recipient, must be maintained. The “Statement of Legal Responsibility” form which is attached to this policy should be used to document this relationship. Documentation must also reflect that caregivers who provide services funded by the MR/RD and HASCI Waivers are competent in designated areas and meet other minimum qualifications as specified in the applicable waiver manuals (refer to the appropriate Waiver manual). Training requirements specific to Early Interventionists are outlined in the EI Manual.

When unclear, questions about the permissibility of a relative or family member’s eligibility to receive payment under this policy must be sent to MR/RD and HASCI Waiver staff who will forward to DHHS General Counsel for determination.

Service Coordinators will be expected to monitor the services with the same frequency as would be required if provided by a non-relative caregiver.

Kathi K. Lacy, Ph.D.
Associate State Director, Policy
(Originator)

Stanley J. Butkus, Ph.D.
State Director
(Approved)

Attachments: [Statement of Legal Responsibility](#)
[Guidance to Service Coordinators/Early Interventions for Assisting with the Determination of Legal Responsibility](#)